

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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U.S. DISTRICT COURT
WESTERN DISTRICT OF MICH

UNITED STATES OF AMERICA,

Plaintiff,

No. 1 : 06 CR 0163

vs.

Hon. Gordon J. Quist
U.S. District Judge

DONALD MAGETT,

Defendant.

INDICTMENT

_____/

The Grand Jury charges:

COUNT 1

(Conspiracy to convert pension funds and commit money laundering)

That from in or about January 2000 to February 2002, in Kalamazoo County, in the Southern Division of the Western District of Michigan, and other places,

DONALD MAGETT,

defendant, did knowingly conspire, confederate and agree with Brenda Elaine Mackerel to convert pension funds and to commit money laundering, contrary to 18 U.S.C. §§ 664 and 1957.

Objects of the Conspiracy

The co-conspirators did establish the following objects for their conspiracy:

1. To convert the Magic P.I. & Security, Inc. employees' pension funds to their own use;
2. To conceal the misuse of the Magic P.I. & Security, Inc. employees' pension funds; and
3. To spend the improperly obtained pension funds on Magic P.I. & Security, Inc.'s business expenses.

Overt Acts

That in order to effect the objects of the conspiracy, one or both of the co-conspirators did accomplish at least one of the following overt acts within the Western District of Michigan:

1. That by January 1, 2000, Donald Magett was the owner of a business known as Magic P.I. & Security, Inc., which was located in Kalamazoo, Michigan.
2. That during 2000 and 2001, Donald Magett was obtaining contracts from federal agencies which required him to provide private security guards for various federal facilities.
3. That during 2000 and 2001, Donald Magett was required to offer a retirement benefit to any employee working under a federal agency contract. During 2000 and 2001, Donald Magett arranged for his "federal contract" employees to participate in a retirement benefit plan commonly referred to as a "401(k) plan."
4. That during 2000 and 2001, Donald Magett and Brenda Elaine Mackerel were jointly responsible as 401(k) plan trustees to make sure that the federal contract employees' 401(k) funds were placed in trust accounts and safeguarded solely for the benefit of the 401(k) plan participants.
5. That during the first half of 2000, Donald Magett and Brenda Elaine Mackerel properly followed procedures which applied to the handling of federal contract employees' 401(k) funds.
6. That during the second half of 2000, Magic P.I. and Security, Inc. began to experience financial problems and was unable to pay its bills and financial obligations in a timely manner.

7. That in or about December 2000, Donald Magett and Brenda Elaine Mackerel agreed to withdraw approximately \$154,000 in federal contract employees' 401(k) funds from an account which was handled by American Express. This was referred to as a 401(k) trust account.

8. That during the time period of December 2000 to February 2001, Donald Magett and Brenda Elaine Mackerel unlawfully converted the federal contract employees' 401(k) funds to their own benefit. (This conduct is also alleged as Count 2, which is herein incorporated).

9. That during January and February 2001, Donald Magett and Brenda Elaine Mackerel unlawfully engaged in money laundering with the pension funds which they had unlawfully converted. (This conduct is also alleged as Count 4, which is herein incorporated).

10. That during 2001, Magic P.I. & Security, Inc. continued to experience financial problems and was unable to pay its bills and financial obligations in a timely manner.

11. That in or about September 2001, Donald Magett and Brenda Elaine Mackerel agreed to withdraw approximately \$168,000 in federal contract employees' 401(k) funds from an account which was handled by American Express. This was referred to as a 401(k) trust account.

12. That during the time period of September 2001 to December 2001, Donald Magett and Brenda Elaine Mackerel unlawfully converted the federal contract employees' 401(k) funds to their own benefit. (This conduct is also alleged as Count 3, which is herein incorporated).

13. That from September 2001 to February 2002, Donald Magett and Brenda Elaine Mackerel unlawfully engaged in money laundering with the pension funds which they had unlawfully converted. (This conduct is also alleged as Count 5, which is herein incorporated).

18 U.S.C. § 371
18 U.S.C. § 664
18 U.S.C. § 1957
18 U.S.C. § 2

COUNT 2
(Conversion of Pension Funds)

That from January 1, 2000 to February 28, 2001, in Kalamazoo County, in the Southern Division of the Western District of Michigan,

DONALD MAGETT,

defendant, did unlawfully and willfully convert to the use and benefit of himself and another person, moneys, funds, securities, credits, property and other assets of an employee pension benefit plan, which was subject to at least one of the provisions of Title I of the Employee Retirement Income Security Act of 1974.

Specifically, the defendant, as a trustee for the Magic P.I. & Security, Inc. 401(k) plan, caused the distribution of employee retirement funds. During the year 2000, approximately \$148,000 in employee retirement funds were withdrawn from a 401(k) trust account. Instead of forwarding these retirement funds to eligible employees, the defendant used the employees' retirement funds to pay: 1) business expenses of Magic P.I. & Security, Inc., a business owned by Donald Magett; 2) business expenses of Magic Civil Process, a business owned by Donald Magett; and 3) the personal expenses of Donald Magett. The employees, who lawfully were entitled to ownership and control of the employee retirement funds after their distribution, did not receive the money and did not know that their money had been spent for the benefit of Donald Magett and others.

18 U.S.C. § 664
18 U.S.C. § 2

COUNT 3
(Conversion of Pension Funds)

That from March 1, 2001 to December 31, 2001, in Kalamazoo County, in the Southern Division of the Western District of Michigan,

DONALD MAGETT,

defendant, did unlawfully and willfully convert to the use and benefit of himself and another person, moneys, funds, securities, credits, property and other assets of an employee pension benefit plan, which was subject to at least one of the provisions of Title I of the Employee Retirement Income Security Act of 1974.

Specifically, the defendant, as a trustee for the Magic P.I. & Security, Inc. 401(k) plan, caused the distribution of employee retirement funds. During the year 2001, approximately \$81,000 in employee retirement funds were withdrawn from a 401(k) trust account. Instead of forwarding these retirement funds to eligible employees, the defendant used the employees' retirement funds to pay: 1) business expenses of Magic P.I. & Security, Inc., a business owned by Donald Magett; 2) business expenses of Magic Civil Process, a business owned by Donald Magett; and 3) the personal expenses of Donald Magett. The employees, who lawfully were entitled to ownership and control of the employee retirement funds after their distribution, did not receive the money and did not know that their money had been spent benefit for the benefit of Donald Magett and others.

18 U.S.C. § 664
18 U.S.C. § 2

COUNT 4
(Money Laundering)

That on or about January 29, 2001, in Kalamazoo County, in the Southern Division of the Western District of Michigan,

DONALD MAGETT,

defendant, did knowingly and unlawfully cause another person to engage in a monetary transaction affecting interstate commerce in property derived from a specified unlawful activity with a value greater than \$10,000.

Specifically, the defendant caused Brenda Elaine Mackerel to prepare a check from the Magic P.I. & Security, Inc. 401(k) checking account in the amount of \$80,000, which was made payable to Lucille Mackerel. These funds represented retirement benefits which were the lawful property of Magic P.I. & Security, Inc. employees. The employees' retirement money was unlawfully used by Donald Magett and Brenda Elaine Mackerel to pay the business expenses of Magic P.I. & Security, Inc.

18 U.S.C. § 1957

18 U.S.C. § 664

18 U.S.C. §§ 2

COUNT 5
(Money Laundering)

That on or about November 13, 2001, in Kalamazoo County, in the Southern Division of the Western District of Michigan,

DONALD MAGETT,

defendant, did knowingly and unlawfully cause another person to engage in a monetary transaction affecting interstate commerce in property derived from a specified unlawful activity with a value greater than \$10,000.

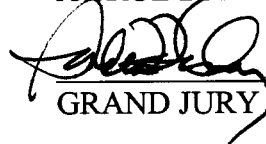
Specifically, the defendant caused Brenda Elaine Mackerel to prepare a check from the Magic P.I. & Security, Inc. 401(k) checking account in the amount of \$23,000, which was made payable to Brenda Mackerel. These funds represented retirement benefits which were the lawful property of Magic P.I. & Security, Inc. employees. The employees' retirement money was unlawfully used by Donald Magett and Brenda Elaine Mackerel to pay the business expenses of Magic P.I. & Security, Inc.

18 U.S.C. § 1957

18 U.S.C. § 664

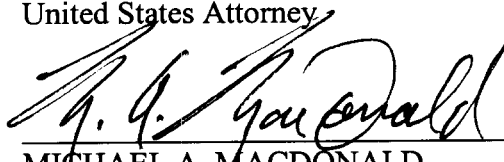
18 U.S.C. § 2

A TRUE BILL



GRAND JURY FOREPERSON

MARGARET M. CHIARA
United States Attorney


MICHAEL A. MACDONALD
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